

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

02-H-592-11246
JM

MARK CHRISTOPHER PETTIT,)
v.)
Plaintiff,)
)
v.) CIVIL ACTION NO. 02-H-0592-NE
)
MARSHALL COUNTY SHERIFF MAC)
HOLCOMB, WARDEN BROWN,)
SERGEANT BANKSTON, JAILER)
MASON, and UNNAMED CUBICLE)
OFFICER,)
)
Defendants.)

ENTERED
MAY 21 2002

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on May 9, 2002, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed under 28 U.S.C. § 1915A(b). The plaintiff filed objections to the report and recommendation on May 17, 2002.

Plaintiff objects to the court ruling on his complaint without serving it on the defendants first. Plaintiff maintains that he could have obtained additional information if he had been allowed discovery. The court is required by 28 U.S.C. § 1915A to screen complaints and rule on some claims prior to serving the complaint on the defendants. The magistrate judge recommended dismissing only those claims for which additional discovery would be of no benefit. Even if plaintiff had been allowed to discover the name of the cubicle officer he still failed to state a claim of constitutional proportion against him and the officer would be due to be dismissed as a defendant.

Regardless of the fact that plaintiff had interpreted the actions of the defendants as being deliberately indifferent to his need for protection he has failed to submit any facts to support that

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claim. Deliberate indifference is more than carelessness, lack of attention, or even an attempt "to speed up the showering process so he [Jailer Mason] could go to sleep in the cubicle."

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, the complaint is due to be dismissed pursuant to 28 U.S.C. § 1915A(b). A Final Judgment will be entered.

DATED this 21st day of MAY, 2002.



JAMES H. HANCOCK
SENIOR UNITED STATES DISTRICT JUDGE